

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT
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BROOKLYN OFFICE

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TANIA ZEITONE, et al.,
:
Plaintiffs,
:
-against-
:
KORSINSKY & KLEIN, LLP,
:
Defendant.
:
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MEMORANDUM AND ORDER
13-cv-0383 (WFK) (JO)

WILLIAM F. KUNTZ, II, United States District Judge

On October 3, 2013, United States Magistrate Judge James Orenstein issued a report and recommendation recommending that this Court approve Plaintiffs' motion for infant compromise. Dkt. No. 30. For the reasons set forth below, Magistrate Judge Orenstein's report and recommendation is ADOPTED in its entirety. Accordingly, the Court APPROVES Plaintiffs' motion for infant compromise.

The facts in this action are meticulously detailed in Magistrate Judge Orenstein's report and recommendation, and will not be restated here. *See id.* Neither party has objected to the report and recommendation.

A district court reviewing a report and recommendation "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C); *see also McGrigs v. Killian*, No. 08 Civ. 6238, 2009 WL 3762201, at *2 (S.D.N.Y. Nov. 10, 2009) (Berman, J.). Under 28 U.S.C. § 636(b)(1) and Rule 72(b)(2) of the Federal Rules of Civil Procedure, parties may object to a magistrate judge's report and recommendation.

The objections must be “specific” and “written,” and they must be made “[w]ithin 14 days after being served with a copy of the recommended disposition.” Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1).

Where, as here, a party does not object to a report and recommendation, “a district court need only satisfy itself that there is no clear error on the face of the record.” *Reyes v. Mantello*, No. 00 Civ. 8936, 2003 WL 76997, at *1 (S.D.N.Y. Jan. 9, 2003) (Cote, J.); *see also Eisenberg v. New England Motor Freight, Inc.*, 564 F. Supp. 2d 224, 226 (S.D.N.Y. 2008) (Marrero, J.) (“A district court evaluating a Magistrate Judge’s report and recommendation may adopt those portions of the . . . report to which no ‘specific written objection’ is made, as long as the factual and legal bases supporting the findings and conclusions set forth in those sections are not clearly erroneous or contrary to law.” (quoting Fed. R. Civ. P. 72(b)(2))). In addition, a party’s “failure to object timely to a magistrate’s report operates as a waiver of any further judicial review of the magistrate’s decision.” *F.D.I.C. v. Hillcrest Assocs.*, 66 F.3d 566, 569 (2d Cir. 1995). Moreover, in this case, the report and recommendation explicitly stated that “[a]ny objections to this Report and Recommendation must be filed no later than October 21, 2013” and that “[f]ailure to file objections within this period . . . waives the right to appeal the district court’s order.” Dkt. No. 30 at 8.

No objections to Magistrate Judge Orenstein’s report and recommendation have been filed. Accordingly, this Court has reviewed the report and recommendation for clear error only.

Magistrate Judge Orenstein’s report correctly cited the relevant case law on determining the fairness of a particular settlement, particularly when infants are involved. *See id.* at 4–7. Magistrate Judge Orenstein then thoughtfully applied this law to the facts in this case,

concluding that (1) the settlement is the result of arm's-length bargaining, (2) counsel's investigation into the circumstances surrounding the alleged conduct was sufficient, (3) neither Plaintiffs' attorney nor his firm has any interest in the settlement of the instant claim adverse to their clients' interests, (4) continued litigation would likely cause significant expense for all parties, (5) and the award, which is greater than the maximum statutory award available under the FDCPA, will go entirely to the infants. *Id.* at 5-7. Based on these facts and conclusions, Magistrate Judge Orenstein concluded that the proposed infant compromise is fair, and recommended that this Court enter an order in the form the parties have submitted. *Id.* at 7. This Court finds no clear error in this analysis, or in the report and recommendation overall.

For the foregoing reasons, this Court ADOPTS Magistrate Judge Orenstein's report and recommendation in its entirety, and therefore GRANTS the motion by Plaintiffs' counsel to approve the infant compromise.

SO ORDERED

Dated: Brooklyn, New York
November 1, 2013

/s/(WFK)


HON. WILLIAM F. KUNTZ, II
United States District Judge